

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN

ERVIN JOSEPH LAMIE, JR.,

Plaintiff,

v.

HONORABLE PAUL L. MALONEY

FEDERAL HOME LOAN MORTGAGE  
CORPORATION,

Case No. 1:23-cv-00976

Defendant.

/

**ORDER DENYING LEAVE TO PROCEED  
IN FORMA PAUPERIS ON APPEAL**

This is a civil action brought under 42 USC § 1983. On October 30, 2023, the Court entered an order and judgment dismissing the action. Plaintiff now has filed a notice of appeal and a motion for leave to proceed *in forma pauperis* on appeal. (ECF Nos. 16, 21).

A non-prisoner desiring to proceed on appeal *in forma pauperis* must obtain pauper status under Federal Rule of Appellate Procedure 24(a). *See Callihan v. Schneider*, 178 F.3d 800, 803–04 (6th Cir.1999). Rule 24(a) provides that if a party seeks pauper status on appeal, he must first file a motion in the district court, along with a supporting affidavit. Fed. R. App. P. 24(a)(1). However, Rule 24(a) also provides that if the district court certifies that an appeal would not be taken in good faith, or otherwise denies leave to appeal *in forma pauperis*, the party must file his motion to proceed *in forma pauperis* in the Court of Appeals. Fed. R. App. P. 24(a)(4)-(5); *see also* 28 U.S.C. § 1915(a)(3) (providing that “[a]n appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith”).

Good faith is judged objectively, *see Coppedge v. United States*, 369 U.S. 438, 445 (1961), and an appeal is not taken in good faith if the issue presented is frivolous, defined as lacking

an arguable basis either in fact or law. *See Dellis v. Corr. Corp. of Am.*, 257 F.3d 508, 511 (6th Cir. 2001). Detailed reasons for dismissal of the complaint and for imposition of additional filing restrictions were provided in both the September 22, 2023 Report and Recommendation (ECF No. 6) and in the November 2, 2023 Amended order Adopting and Modifying the Report and Recommendation. (ECF No. 15.) The Court reaffirms its decision and finds that the issues on which Plaintiff might seek review are frivolous. The Court, therefore, certifies that the appeal is not taken in good faith.

IT IS ORDERED that Plaintiff's motion for leave to proceed *in forma pauperis* on appeal (ECF No. 21) is DENIED. If Plaintiff wishes to proceed with his appeal, he must pay the \$605.00 appellate fee to the Clerk of this Court within 28 days of this order. See 28 U.S.C. §§ 1913, 1917; 6 Cir. I.O.P. 3; Court of Appeals Miscellaneous Fee Schedule § 1 (Dec. 1, 2023). Alternatively, Plaintiff may file a motion for leave to proceed *in forma pauperis* in the Court of Appeals pursuant to the requirement set forth in Fed. R. App. P. 24(a)(5).

IT IS SO ORDERED.

Date: January 9, 2024

/s/ Paul L. Maloney  
Paul L. Maloney  
United States District Judge